

DIAA Board of Directors' Meeting Minutes  
January 21, 2010 – 9:00 a.m.  
Collette Building

I. Opening

A. Call to Order

The meeting was called to order at 1:00 p.m. by DIAA Chairperson Gerald Kobasa.

B. Roll Call

The following DIAA Board members were present: Gerald Kobasa, Curtis Bedford, Eugene Montano, Edna Cale, Debbie Corrado, Joan Samonisky, Harvey Hyland, Susan Coffing, Robert Reed, Dr. Jeffrey Hawtof, Woody Long, Randall O'Neal, Ron Eby, Catherine Marvel, Dianne Sole, Teresa Taylor, Mike Modica, and Dr. George Stone. Kevin Charles, Executive Director; and Frederic Schranck, Deputy Attorney General were also in attendance. Mike Wagner and Dr. Michael Owens were unable to attend.

C. Approval of Agenda

Mr. Kobasa stated that Item III. H. was being added to the agenda. Dr. Hawtof made a motion to approve the agenda as amended. The motion was seconded by Mr. Eby and carried unanimously.

D. Approval of Minutes of December 10, 2009 Board of Directors' Meeting

Ms. Cale made a motion to approve the minutes of the December 10, 2009 Board of Directors meeting. The motion was seconded by Mr. Reed and carried unanimously.

E. DIAA Financial Report

Mr. Charles stated that for the reporting period of December 9 through January 12 the total income was \$80,009.00 which was primarily from football, dues, weight management, and miscellaneous. Mr. Charles stated that the expenses for the reporting period were \$14, 107.00 which were primarily from the football tournament expenses. Mr. Charles stated that at this point we are still in the red which is normal for this time of year. Mr. Eby made a motion to approve the financial report. The motion was seconded by Dr. Sole and carried unanimously.

III. Action Items

A. Approval of Tournament Sanctions

Mr. Charles stated that there are 31 sanction requests which include basketball, indoor

track, wrestling, baseball, softball, and spring track. Mr. Charles stated that they are all in compliance with NFHS and DIAA regulations and the applications are available for the Board's review. Dr. Hawtof made a motion to approve the sanction events. The motion was seconded by Mr. Montano and carried unanimously.

C. Request for Waiver of DIAA Reg. 1009.7.5 by Ursuline Academy

Ms. Susan Heiss, athletic director at Ursuline Academy, was in attendance to present this request.

Ms. Heiss explained that she was asking for a waiver of Rule 1009.7.5 for a volunteer assistant basketball coach, Dave Cranston. Ms. Heiss stated that he has been serving as a volunteer coach at Ursuline for two years and was recently asked by an AAU team to coach the 15 and under team. Ms. Heiss further explained that there is a student on the varsity basketball team who has played on this AAU team for four years. Ms. Heiss stated that she is asking that Mr. Cranston be allowed to coach the student on the AAU basketball team. Ms. Corrado asked if the coach could resign as a volunteer coach in order to be able to coach the AAU team. Ms. Heiss responded by saying that Mr. Cranston's intent is to coach high school ball and is trying to gain as much knowledge about the game as he can. Ms. Heiss stated that there is no paid position for him at Ursuline at this time. Ms. Taylor asked if there is a chance that other Ursuline players could join the AAU team. Ms. Heiss stated that if this were the case she would ask Mr. Cranston to give up his position at Ursuline.

Dr. Hawtof made a motion to go into deliberation. The motion was seconded by Ms. Coffing and carried unanimously.

Ms. Marvel made a motion to come out of deliberation. The motion was seconded by Ms. Cale and carried unanimously.

Dr. Hawtof made a motion to deny the waiver as there was no hardship seen to change the rule for this situation. The motion was seconded by Ms. Coffing and carried by a vote of 16 – yes (Kobasa, Bedford, Montano, Cale, Corrado, Samonisky, Marvel, Hyland, Sole, Coffing, Taylor, Reed, Hawtof, Long, Stone, and Eby). Mr. Modica recused himself.

B. Request for Waiver of DIAA Reg. 1009.2.4 by Milford for J. J-T

Ms. Mary Alexander; student's grandmother, Jalissia Johnson-Tiggs; student, Robert Burton; father of student, Glen Stevenson; athletic director at Milford High School, Barry Fillman; athletic director at Polytech High School, and Bruce Curry; principal at Polytech High School were in attendance to present this request. Dr. Sole and Mr. Charles recused themselves from this hearing. Mr. Burton stated that he would like an

open hearing. Mr. Neubauer will be acting as executive director for this hearing. Mr. Kobasa explained that DIAA is a 20 member Board and has 19 voting members. Mr. Kobasa further explained that the law requires the affirmative vote of a majority of the voting members present in order to pass a waiver request. Mr. Kobasa explained there are 16 voting members participating and present to consider this matter. The parties confirmed that they understood and wished to proceed. All parties giving testimony for this hearing were sworn in.

Mr. Schrank reviewed all documents included in the packet. Mr. Burton stated that he had no other documents to add. Mr. Schrank explained that the eligibility issue is governed in part by Regulation 1009.2.4.7 which deals with a change of custody or guardianship. Mr. Schrank explained that the regulation states that the student is ineligible under the ineligibility clause if the reason for the transfer is to seek a superior team, to seek a team more compatible with his/her abilities, or dissatisfaction with the philosophy, policies, methods, or actions with a coach or administrator pertaining to athletics, or to avoid disciplinary action opposed by the sending school. Mr. Schrank stated that a change of custody is not an automatic waiver and that there has to be hardship conditions.

Mr. Burton explained that Mr. Stevenson does not know the facts about why Jalissia transferred to Milford High School. Mr. Burton further explained that Jalissia left Polytech High School after a disagreement. Mr. Burton stated that the coach called Jalissia fat. Mr. Burton explained that after the disagreement he met with the coach and the guidance counselor. Mr. Burton commented that he had planned to withdraw Jalissia that day but did not and she went back to basketball practice. Mr. Burton stated that the following morning the coach dismissed Jalissia from the team. Mr. Burton commented that Jalissia had to run 10 laps because of talking and that she did run the 10 laps. Mr. Burton stated it was the next morning that they released her from the team. Mr. Burton stated that he went to a meeting at the school that included Mr. Fillman, Dr. Curry, Jalissa, Coach Vodvarka, Coach Yiengst, Carmela Williams and her daughter who was released from the team as well. Mr. Burton commented that he brought up what was said about Jalissia's size and the coach told him that was not what was meant. Mr. Burton stated he also asked why she was removed from the team and was told because of her attitude. Mr. Burton commented that Dr. Curry did try to rectify the problem by asking the girls to go back out for the team. Mr. Burton stated that Coach Vodvarka stated that there were no spots on her team. Mr. Burton stated that Jalissia continued to attend Polytech for the next 8 days for the sole purpose of receiving her credits. Mr. Burton stated he moved her out of Polytech and in the meantime had been talking to her grandmother about having Jalissia live with her and attending Milford High School.

Mr. Kobasa stated that since the grandmother is the legal guardian she will be making all decision for Jalissia in this hearing.

Dr. Curry thanked the Board for allowing him to give Polytech's perspective on the situation involving Jalissia's eligibility. Dr. Curry stated that his perspective centers

around the question could a basketball player withdraw from one school on December 11, 2009 and be able to play basketball at another school 18 days later. Dr. Curry gave a summarized chronology of the events from November 23 to January 13. Dr. Curry stated that on November 23 at 8:00 a.m. there was a meeting with Jalissia, Mr. Burton, another student and parent, Coaches Vodvarka and Yiengst of the girls basketball team, and Barry Fillman the athletic director and himself. Dr. Curry explained that the conversation centered around both girls not making the varsity girls basketball team and subsequently being cut from the JV basketball team. Dr. Curry further explained that both girls claimed they did nothing to warrant that removal from the JV team. Dr. Curry commented that Coach Vodvarka stated that both girls were not giving their best effort during practice and had separated themselves from the team. Dr. Curry stated that the other student admitted being disrespectful when told of her removal from the team and that Jalissia denied being disrespectful. Dr. Curry stated that Mr. Burton commented that her daughter was not selected from the team because of her physique. Dr. Curry stated that he did not hear the word fat come up in the conversation. Dr. Curry commented that Mr. Burton expressed extreme dissatisfaction with the actions of Coach Vodvarka and that Mr. Burton stated that the contract signed by the players was violated by the coaches. Dr. Curry explained that the contract was a document used by all coaches at Polytech and addresses team discipline, participation, and how to appeal if you have a question. Dr. Curry stated that at this meeting Jalissia stated that she loved Polytech. Dr. Curry stated that at no time was Polytech's quality of education questioned. Dr. Curry stated that the mother of the other student felt her daughter was unfairly removed from the team and denied all the reason provided by the coaches for her removal. Dr. Curry stated that after a long discussion he asked the coaches to give the two girls the opportunity to come back out for the team. Dr. Curry stated that the other student accepted the offer and is starting on the JV team and playing each team. Dr. Curry stated that Jalissia stated that she was not interested. Dr. Curry explained that after that meeting Mr. Burton requested a private meeting and requested that Jalissia be allowed to skip all classes remaining in the semester which would have been 20 school days just to make state finals. Dr. Curry stated that he denied the request and explained the schools policy on attendance and truancy. Dr. Curry commented that Mr. Burton asked about Jalissia's current attendance and what she could miss and still meet the attendance requirement. Dr. Curry explained that Jalissia had no absences in the semester. Dr. Curry further explained that Mr. Burton commented that he planned to change Jalissias residence and guardianship to her grandmother and transfer her to Milford High School. Dr. Curry stated that he explained the regulations of transferring for athletic reasons and questioned her eligibility at the receiving school. Dr. Curry commented that he stated to Mr. Burton that he felt Jalissia would be ineligible in basketball and softball. Dr. Curry stated that Mr. Burton then told him that the transfer was not for athletic reasons and that there were a lot of issues involved. Dr. Curry stated that Mr. Burton then told him that he would be contacting the NAACP, lawyer, and Reverend Al Sharpton. Dr. Curry then stated that on December 2, 2009 Dr. Bob Sutcliff contacted him and requested information on Jalissia's transfer to Milford High School. Dr. Curry stated that Mr. Burton gave permission for Dr. Sutcliff to contact Dr. Curry regarding this issue. Dr. Curry stated that he then described the situation and the

discussion on November 23 and that he did not want her to leave Polytech but that it was ultimately the parents decision. Dr. Curry stated that Dr. Sutcliff told him he would then contact Mr. Burton and apprise him of the residency requirements. Dr. Curry then stated that on December 11, 2009 Mr. Burton withdrew Jalissia so that he could enroll her in Milford High School. Dr. Curry stated that he explained to Mr. Burton that once she withdrew she could not take her finals nor could she get credits without taking the final exams and that Milford High School would have to determine what credits would transfer in. Dr. Curry stated that Mr. Burton told him he was lying about the credits and stormed out and stated that he would be contacting the ACLU and would see him in court. Dr. Curry then stated that on December 14, 2009 Mr. Fillman met with Mr. Stevenson regarding the transfer of Jalissia. Dr. Curry commented that on January 6, 2010 Mr. Burton came into Polytech to complain that Polytech had filed a grievance with DIAA which prevented Jalissia from playing varsity basketball at Milford High School and that Mr. Burton stated that this was harassment by Polytech. Dr. Curry stated that he then informed Mr. Burton that he would contact Mr. Fillman and Mr. Charles. Dr. Curry stated that Mr. Charles stated that he did contact Mr. Stevenson to check the eligibility situation of Jalissia. Dr. Curry commented that Dr. Kohel the principal at Milford High School contacted him to discuss the transfer situation and after their conversation Dr. Kohel commented that she felt Jalissia was ineligible. Dr. Curry stated that on January 13, 2010 that he called Mr. Charles and was informed that Mr. Burton planned to appeal the ineligibility decision at the January 21, 2010 DIAA Board meeting.

Mr. Fillman commented that he supported everything that Dr. Curry mentioned.

Ms. Alexander commented that Jalissia came to her upset about the situation and decided that Jalissia could live with her as long as she got custody of her. Ms. Alexander also commented that Jalissia wanted to come to Milford for the academics.

Mr. Bedford asked what was her home school and Mr. Burton responded by saying that it was Caesar Rodney but she had never attended Caesar Rodney. Ms. Alexander stated that her feeder school is Milford.

Jalissia commented that the JV coach told her that because of her size they did not feel that she would be capable of running their press plays. Mr. Modica commented that the coach was not calling her fat but was saying that physically she would have a hard time running their program.

When asked what Milford's position was on this waiver Mr. Stevenson responded by saying that they will abide by whatever the DIAA Board decides. Mr. Stevenson commented that he believes that Milford will take the grades that Polytech had at the time Jalissia left and combine them with the grades that she has at Milford.

Mr. Stevenson stated that when Jalissia first transferred to Millford they declared her as eligible based on the information they had and it wasn't until Dr. Kohel's conversation with Dr. Curry did they rule her ineligible.

Mr. Neubauer commented on the letter signed by Dr. Kohel stating that it was ambiguous and that they were just supporting Mr. Burton's right to speak at this meeting.

Mr. Lenny Richardson, assistant principal at Polytech, was sworn in and stated that Jalissia moved from Kent County to Sussex County and she would attend Sussex Tech if she chose to do so.

Dr. Hawtof made a motion to go into deliberation. The motion was seconded by Ms. Taylor and carried unanimously. Mr. Long made a motion to come out of deliberation. The motion was seconded by Ms. Cale and carried unanimously.

Mr. Stevenson commented that he is trying to stay neutral in this hearing because this is a very delicate situation and he believes it comes down to questioning the integrity of Polytech High School versus the integrity of this family. Mr. Stevenson further commented that he was not present at the meeting between Polytech and the Burtons and does not know what was said.

Dr. Curry stated that he was not opposed to the waiver but was in attendance to rebut negative comments made towards Polytech.

Mr. Charles was sworn in to give a background on this case. Mr. Charles stated that from DIAA's perspective is that eligibility is determined by the school where the child is attending unless there is a question about the students eligibility at which time an appeal can be made to the Executive Director. Mr. Charles stated that Mr. Burton came to him and had a conversation about this situation and Mr. Charles stated that he realized that one of the key people involved was a childhood friend of his daughters so he told Mr. Burton that he had to recuse himself. Mr. Charles explained that Mr. Burton has asked for a waiver of the transfer rule that relates to this situation. Mr. Charles stated that by living with the father Jalissia is in the Caesar Rodney School District. Mr. Charles explained that instead of going to Caesar Rodney High School they obtained a court order to change the custody for Jalissia to live with her grandmother. Mr. Charles stated that the question is if they requested the court order for change of custody so that they could circumvent the eligibility rule and be eligible at Milford. Mr. Charles stated that in terms of how things started between Milford and himself he explained that Mr. Stevenson contacted him and explained the situation. Mr. Charles stated that at that time there had been a court order change of custody and since that is one of the exceptions to the transfer rule Mr. Charles stated that she would be eligible. Mr. Charles then stated that he was contacted by Mr. Fillman and was filled in with more detail on this situation. Mr. Charles stated that he then called Mr. Stevenson and Dr. Kohel and gave them the additional information that he received from Mr. Fillman and told them to take the new information into consideration when determining Jalissia's eligibility. Mr. Charles stated he was then informed that Dr. Kohel ruled Jalissia ineligible. Mr. Charles then informed the Board that the application for waiver can still be submitted even if the school does not

support the request.

Mr. Burton asked if his daughter could leave the room so that he could say some things that he didn't want her to hear. Mr. Burton commented that since this situation his daughter doesn't eat from 12:00 midnight until 12:00 lunchtime and from 12:00 lunch to 6:00 p.m. she will only eat a salad and from 6:00 p.m. to midnight she will eat something small. Mr. Burton stated that Jalissia's weight had never been an issue in her life. Mr. Burton commented that he wanted her to play basketball because it is healthy. Mr. Burton stated that whatever the Board's decision is they will live with it.

Ms. Corrado made a motion to deny the request for basketball based on Regulation 1009.2.4.7 and the testimony given and would like to table the request for softball for clarification from Milford. The motion was seconded by Mr. Eby. Mr. Charles asked why this was tabled. Dr. Hawtof explained that they wanted support by Dr. Kohel clarified before they determine whether to approve softball. Ms. Samonisky asked if the tabled request for softball could be done without having to have the family come back since they have spent so much time here today. Ms. Corrado explained that she did not want to include softball in the denial since she felt the transfer was due to basketball. Mr. Stevenson asked if Jalissia would be eligible for basketball next year.

Ms. Corrado amended her motion to deny the request for basketball based on Regulation 1009.2.4.7 and testimony given until the first day of basketball next season and to table the motion for softball until clarification from Dr. Kohel is received. Mr. Eby withdrew his second. Ms. Cale seconded the amended motion and carried by 16 – yes (Kobasa, Bedford, Montano, Cale, Corrado, Samonisky, Marvel, Hyland, Coffing, Taylor, Hawtof, Long, Modica, Stone, O'Neal, and Eby) and 1 – no (Reed). Dr. Sole recused herself.

The Board recessed at 3:05 p.m. and reconvened at 3:10 p.m.

#### IV. D. Legal Issues

Mr. Schrank informed the Board that the hearing from the last Board meeting with regards to the Malabet student is now subject to litigation in Chancery Court. Mr. Schrank stated that the Board's order was sent to St. Thomas More and the parents at the end of December. Mr. Schrank stated that St. Thomas More filed a law suit on January 11, 2010 seeking to reverse the DIAA Board's order. Mr. Schrank also stated that they did not file an appeal to the State Board of Education. Mr. Schrank stated that the matter is up for argument on the temporary restraining order for Monday, January 25, 2010.

#### III. Action Items

##### D. Approval of Annual Report to the General Assembly

Mr. Charles reviewed the annual report with the Board and reviewed some changes that need to be made. Dr. Hawtof made a motion to approve the Annual Report with changes. The motion was seconded by Ms. Corrado and carried unanimously.

E. Approval of Kanaby Gift

Mr. Charles explained that this is a request on behalf of the DIAA office to approve a gift to Bob Kanaby. Mr. Charles stated that Mr. Kanaby is the Executive Director of the NFHS since 1993 and had done a remarkable job in taking the NFHS from almost bankrupt to being very fiscally sound. Mr. Charles stated that the states are getting together to give Mr. Kanaby and his wife a parting gift. Mr. Charles stated that the gift they are asking for from each state is \$350.00. Mr. Kobasa commented that when DSSAA was dissolved and DIAA was formed and there was no executive director Mr. Kanaby was extremely helpful to us. Ms. Samonisky made a motion to accept the approval of the gift. The motion was seconded by Ms. Cale and carried unanimously.

F. Self-Report by St. Georges Technical High School

Mr. Charles explained that this is a self report by St. Georges who used a JV wrestler in a contest against Mt. Pleasant. Mr. Charles stated that the wrestler did not have a physical and was therefore ineligible. Mr. Charles commented that they took administrative action against their coach as well as rectified the situation with respect to the physical and did notify Mt. Pleasant of the error. Mr. Charles stated that he did not see the need for additional penalties. Ms. Samonisky made a motion to accept penalties given by the school. The motion was seconded by Mr. Long and carried unanimously.

G. Self-Report By Glasgow High School

Mr. Charles explained that Glasgow self-reported the use of an athlete that was not included on the eligibility form. Mr. Charles stated that the athlete was eligible otherwise but was left off the form. Mr. Charles stated the penalty is a \$25.00 fine which is still going through the school district. Dr. Hawtof made a motion to approve the penalty by the school. The motion was seconded by Dr. Stone and carried unanimously.

H. DIAA Board of Directors Meeting Schedule for 2010-2011

Mr. Charles stated that this is the meeting schedule for the following school year. Mr. Charles requested that the March 10, 2011 meeting be moved to March 17, 2011 due to the basketball championships. Ms. Coffing made a motion to approve the meeting schedule. The motion was seconded by Mr. Bedford and carried unanimously.



#### IV. Executive Director Report

##### A. 2009 Waiver Hearing Report

Mr. Charles reviewed the calendar year 2009 waiver hearing report that Ms. Hurley prepared with the Board. Mr. Charles stated that there were 54 waivers heard in 2009. Thirty-nine were transfers, five were 5<sup>th</sup> year requests and 10 were other requests.

##### B. Update on Board Replacement

Mr. Charles reviewed with the Board who was going to be replaced on the Board and who was being reappointed. Mr. Charles stated that Corrado, Wagner, Samonisky, Reed, were due to be replaced and that Modica, Marvel, Stone, and Kobasa are eligible to be reappointed.

##### E. Misc.

Mr. Charles stated that Cape Henlopen did file letters with all the schools that they had to forfeit games and the trophy has been returned. That matter is considered closed.

Mr. Charles commented to the Board that due to budget restrictions we could no longer print tournament certificates but that Pro Physical Therapy has agreed to sponsor and pay for that cost.

##### C. Committee Reports

Mr. Charles explained that there are four standing committees which are the Rules and Regulations, Officials, Sports Medicine, and the Sportsmanship. Mr. Charles wanted to give the Board an opportunity to hear from each Committee. Mr. Charles stated that he has received a report from the Sports Medicine Committee and that he would send that to the members of the Board. Mr. Thomson, committee chair of the Officials Committee, commented that they have changed their meeting format and are meeting twice a year. Mr. Thomson stated that they start their meetings with an audit of certain groups each year as they come through and they have to give an annual report and each of the sessions will be working sessions based on topics. Mr. Thomson stated that the next session will be on Training and Retaining of Officials and after that there will be a business section. Mr. Charles stated that DIAA has a very good relationship with the officials now.

V. Other

VI. Public Comment

None.

VII. Adjournment

Mr. Bedford made a motion to adjourn at 3:50 p.m. The motion was seconded by Ms. Coffing and carried unanimously.

---

Tina Hurley